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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/581,314

07/07/2006

Ilkka Limma

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3858

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7590

06/26/2008

NATH & ASSOCIATES
112 South West Street
Alexandria, VA 22314

EXAMINER

LONG, ROBERT FRANKLIN

ART UNIT

PAPER NUMBER

3764

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/581,314	LIMMA ET AL.	
	Examiner	Art Unit	
	Robert F. Long	3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>08/04/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 1-8, 10, 12-15 and 20** are rejected under 35 U.S.C. 102(e) as being anticipated by **Mault et al. (US 6790178 B1)**.

3. **Regarding claims 1-8, 10, 12-15 and 20**, Mault et al. discloses a physiological measurement feedback system using a GPS system attached to a user and/or other communication systems, *(column 12, lines 23-29, figures 1-29), correlated with other physiological or environmental parameters (column 11, lines 27-32) and also discusses almost any type of physiological monitor may be incorporated into the present invention (column 6, lines 15-17). Mault et al. also teaches any communication system could be used and any embodiments discussed can be used with the embodiments discussed, (column 24, lines 53-67). Mault et al. teaches using the common PDA apparatus as a means for providing the desired physiological feedback and graphical display data. Mault et al. also discusses connecting the device with other devices (column 4, lines 41-56, figures 1-2, and 21) interconnection with remote computers, such as via the Internet. The PDA may also directly communicate with remote computers, such as by*

using a wired or wireless modem (column 8, lines 7-12, figures 1-2, and 21, figures 2,3,17,21,and 29) and module that interconnects or otherwise communicates with a PDA, either during or after use, (column 8, lines 45-47). Mault et al. also teaches any of the embodiments of the present invention may be used with any other embodiments, (column 24, 53-67, figures 1-29). A more detailed analysis of the claims is as follows.

Regarding claims 1-3, 5-7, 10, 12, 13, 15, 19, 21, 23, and 24 Mault et al. discloses a measurement device, **PDA 10**, with a first and second processor having first and second memory elements, processor with control buttons, **96/166** (column 7, lines 22-30, and claim 1, figures 8, 12, 13,) and the method of transmitting measured activity data to a communication link transmitting through a communication protocol, **plans/instructions**, (column 6, lines 62-67, column 7, lines 1-12, figures 2,3,17,21,29), plurality of measuring elements, **transducers**, (column 17, lines 34-67 and column 18, lines 1-5,figure 18) selecting from the received activity data and/or a piece(s) of information and process the information to stored definitions, **physiological data**, providing feedback on selected activity based on predefined activity and/or the measured activity information and at least one individual with at least one activity indicator which can be calculated with a feedback device, (column 8, lines 15-47, column 11, 45-67, column 12, lines 1-30, figures 1-28).

Regarding claim 4, 17, 18, 25, 26 Mault et al. discloses a receiving device system with a method of presenting at least on activity indicator in display as **graphical (figure 12)** and/or voice signals, speaker, housing unit, **112, figure 11**, data is transmitted to the monitor along with **sounds or video**, (column 18, liens 25-29) and

incorporated into a music device, (column 13, lines 19-22) and either video or audio, (column 23, lines 60-63, column 14, lines 47-50, figures 11-12), and (column 8, lines 15-31, figures 9, 12, 18, and 19) an earpiece, wearable computing devices such as may take the form of jewelry, buttons, and eyeglasses (column lines 22-30).

Regarding claim 8, 14, 22, Mault et al. discloses a receiving device system with the method of one individual with feedback **feedback/ performance data** (column 4, lines 20-25/lines 36-37, column 5, lines 19-56, column 6, lines 62-67, and column 7, lines 1-26), with at least one device connected to the receiving device, (column 4, lines 41-56, figures 1-2, and 21) interconnection with remote computers, such as via the Internet. The **PDA 10** may also directly communicate with remote computers, such as by using a wired or wireless modem (column 8, lines 7-12, figures 1-2, and 21, figures 2, 3, 17, 21, and 29) and module that interconnects or otherwise communicates with a PDA, either during or after use, (column 8, lines 45-47).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. **Claims 9, 11, 16, and 20** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Mault et al. (US 6790178 B1)**.

Regarding claim 9, 11, 16, and 20 Mault et al. discloses a measurement transmitting system with a method measuring physiological data along with time utilizing communication communications links via, wire, wireless, and/or GPS, (*column 6, lines 15-30, column 11, lines 59-63, column 12, lines 15-30, column 13, lines 32-37, column 17, lines 45-54*) thermometer, transducers, (*column 17, lines 34-67 and column 18, lines 1-5, figure 18*) pulse coil, band having a section of electrometric material (*column lines 55-58*), and heart rate, (*column 13, lines 58-67, column 14, lines 1-67, column 15, lines 1-18*), but fails to disclose location and altitude

Mault et al. does teach movement being measured and using environmental correlations, *using a GPS system, (column 12, lines 23-29), correlated with other physiological or environmental parameters (column 11, lines 27-32) and also discusses almost any type of physiological monitor may be incorporated into the present invention (column 6, lines 15-17). Mault et al. also teaches any communication system could be used and any embodiments discussed can be used with the embodiments discussed, (column 24, lines 53-67) and also teaches any of the embodiments of the present invention may be used with any other embodiments, (column 24, 53-67, figures 1-29).*

All of the parts are known in *Mault et al.* The only difference is the combination of the “old elements” into a single communication feedback measurement system

device. Thus, it would have been obvious to the exercise artisan to implement the communication feedback measurement system device with a GPS and having location and altitude capability since they are no way dependent on the feedback measurement system device and could be used in combination with the handles communication feedback measurement system device *taught by Maulet et al.*

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. **Dickinson (US 6675041 B2) and Yeo et al. (US 20050124463 A1).**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert F. Long whose telephone number is (571)270-3864. The examiner can normally be reached on 5-4-9 (7:30-5).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LoAn Thanh can be reached on (571) 272-4966. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3764

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert F Long/
Examiner, Art Unit 3764
Monday, June 16, 2008

/Fenn C Mathew/
Primary Examiner, Art Unit 3764